

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DIONIS MEJIA,

Plaintiff,

-against-

CO RUQUET;¹ CO FRANCO; CO MAYS; CO
JANE DOE; SGT. JOSEPH; SGT. ULERIO;
SGT. L. BOYD; LT. JOHN DOE 1; LT. JOHN
DOE 2; LT. JOHN DOE 3; LT. B. AMSPACH;
SGT. JOHN DOE 4,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 08/12/2024

24-CV-5603 (NSR)

ORDER OF SERVICE

NELSON S. ROMÁN, United States District Judge:

Plaintiff, who currently is incarcerated at Elmira Correctional Facility, brings this action, *pro se*, under 42 U.S.C. § 1983, alleging that Defendants violated his federally protected rights. By order dated July 26, 2024, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.²

DISCUSSION

A. Order of service

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.³ *Walker v. Schult*, 717 F.3d. 119, 123 n.6

¹ In the caption of the complaint, Plaintiff spells this this defendant’s name “Rucket,” but in all other references to this individual he spells the name as “Ruquet.”

² Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

³ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

(2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants Ruquet, Franco, Mays, Joseph, Ulerio, Boyd, and Amspach through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Identifying the Doe Defendants

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, Plaintiff supplies sufficient information to permit the New York State Attorney General’s Office to identify Sing Sing Corrections Officer Jane Doe, Green Haven Lt. John Doe 3; and Upstate Sgt. John Doe 4. It is therefore ordered that the New York State Attorney General’s Office, which is the attorney for and agent of the New York State Department of Corrections and Community Supervision, must ascertain the identity and badge number of each Doe whom Plaintiff seeks to sue here and the

address where the defendant may be served. The New York State Attorney General's Office must provide this information to Plaintiff and the Court within sixty days of the date of this order.

Within thirty days of receiving this information, Plaintiff must file an amended complaint naming the Jane and John Doe defendants. The amended complaint will replace, not supplement, the original complaint. An amended complaint form that Plaintiff should complete is attached to this order. Once Plaintiff has filed an amended complaint, the Court will screen the amended complaint and, if necessary, issue an order directing the Clerk of Court to complete the USM-285 forms with the addresses for the newly named defendants and deliver all documents necessary to effect service to the U.S. Marshals Service.

C. Local Rule 33.2

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court's website under "Forms" and are titled "[Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.](#)" Within 120 days of the date of this order, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.⁴

CONCLUSION

The Clerk of Court is instructed to issue a summons for each defendant, complete the USM-285 form with the address for each defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

⁴ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

The Clerk of Court is further directed to mail a copy of this order and the complaint to the New York State Attorney General's Office at: 28 Liberty Street, 16th Floor, New York, N.Y. 10005. An "Amended Complaint" form is attached to this order. The Clerk of Court is also directed to mail an information package to Plaintiff.

Local Rule 33.2 applies to this case.

SO ORDERED.

Dated: August 12, 2024
White Plains, New York

A handwritten signature in blue ink, appearing to read 'Nelson S. Román', is written over a horizontal line.

NELSON S. ROMÁN
United States District Judge

SERVICE ADDRESS FOR EACH DEFENDANT

1. Corrections Officer Ruquet
Sing Sing Correctional Facility
354 Hunter Street
Ossining, N.Y. 10562
2. Corrections Officer Franco
Sing Sing Correctional Facility
354 Hunter Street
Ossining, N.Y. 10562
3. Corrections Officer Mays
Sing Sing Correctional Facility
354 Hunter Street
Ossining, N.Y. 10562
4. Sgt. Joseph
Sing Sing Correctional Facility
354 Hunter Street
Ossining, N.Y. 10562
5. Sgt. Ulerio
Sing Sing Correctional Facility
354 Hunter Street
Ossining, N.Y. 10562
6. Sgt. L. Boyd
Green Haven Correctional Facility
594 Route 216
Stormville, N.Y. 12582
7. Lt. B. Amspach
Upstate Correctional Facility
309 Bare Hill Road
Malone, N.Y. 12953